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**Diamond Detective Agency, Inc. and United Government Security Officers of America, Local #200.**  
Case 12-CA-24119

August 25, 2005

**DECISION AND ORDER**

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN  
AND SCHAUMBER

Pursuant to a charge filed by the United Government Security Officers of America, Local # 200 (the Union) on October 29, 2004, and an amended charge filed on December 29, 2004, the Acting Regional Director for Region 12 of the National Labor Relations Board issued a complaint and notice of hearing on March 16, 2005, against Diamond Detective Agency, Inc. (the Respondent) alleging that it violated Section 8(a)(1) and (3) of the Act. Copies of the charge, amended charge, and the complaint were duly served on the Respondent.

The complaint alleges that the Respondent violated Section 8(a)(1) of the Act by threatening to discharge employees if they engaged in activities on behalf of the Union, and violated Section 8(a)(1) and (3) by suspending and discharging employee Douglas Miller because he joined, supported, and assisted the Union, and engaged in concerted activities, and to discourage employees from engaging in these activities. The Respondent timely filed an answer and an amended answer to the complaint. Although the Respondent's initial answer admitted in part and denied in part the various complaint allegations, the amended answer admits all of the allegations of the complaint.

On May 9, 2005, the Regional Director issued an Order postponing hearing indefinitely, and on July 11, 2005, counsel for the Acting General Counsel filed a Motion to Transfer Proceedings to the Board and for summary judgment. The Acting General Counsel contends that because the Respondent's amended answer admits all the allegations of the complaint, the Motion for Summary Judgment should be granted. The Acting General Counsel requests that the Board issue a decision finding that the Respondent has violated Section 8(a)(1) and (3) as alleged in the complaint, and that an appropriate remedy be ordered that requires the Respondent, among other things, to reinstate Douglas Miller and make him whole for lost earnings and benefits resulting from his suspension and discharge.

On July 14, 2005, the Board issued an order transferring the proceeding to the Board and a Notice to Show

Cause why the Acting General Counsel's motion should not be granted. On July 26, 2005, the Respondent filed an answer in opposition to the Motion for Summary Judgment.

**Ruling on Motion for Summary Judgment**

The Respondent admits the operative facts giving rise to the unfair labor practices alleged in the complaint. Thus, in its amended answer to the complaint, the Respondent acknowledges the allegations of jurisdiction, the Union's status as a labor organization, and the supervisory status of three of the Respondent's officials, including Jim Young. The Respondent also admits the allegations that Supervisor Jim Young violated Section 8(a)(1) on a certain but unknown date in October 2004 by threatening to discharge employees if they engaged in activities on behalf of the Union. Finally, the Respondent admits that it violated Section 8(a)(1) and (3) by suspending employee Douglas Miller on October 12, 2004, and by discharging him on October 25, 2004, because Miller joined, supported, and assisted the Union, and engaged in concerted activities, and to discourage employees from engaging in these activities.

The Acting General Counsel contends that because the Respondent has admitted in its amended answer all of the facts necessary to find the unfair labor practices alleged in the complaint, no hearing is necessary and that summary judgment is warranted. We agree, and find that the Respondent has presented no argument compelling a contrary conclusion.

In its response to the Notice to Show Cause, the Respondent contends that summary judgment is not appropriate because it has already reinstated Miller and because it "disagrees with the amount of the backpay suggested to date by the Region" that is necessary to make Miller whole for the unfair labor practices committed against him. We find no merit in these contentions.

As to the backpay owed Miller, this is solely a remedial issue that may properly be resolved in a subsequent compliance proceeding rather than here, at an unfair labor practice proceeding. The purpose of the instant proceeding is to consider any factual or legal issues presented by the Respondent with respect to the section 8(a)(1) and (3) allegations of the complaint. Because the Respondent's amended answer to the complaint and its response to the Notice to Show Cause fail to refute any of the factual or legal allegations of the complaint, we shall grant the Motion for Summary Judgment.

On the entire record, the Board makes the following

## FINDINGS OF FACT

## I. JURISDICTION

The Respondent, an Illinois corporation with its principal office and place of business in Chicago, Illinois, is engaged in the business of providing security services. The Respondent has been providing security services at the Tampa International Airport in Tampa, Florida, to the Federal Aviation Authority, an agency of the United States of America involved in national defense work. During the 12-month period preceding the issuance of the complaint, the Respondent, in conducting its business operations described above, derived gross revenues from the United States Government in excess of \$50,000 and performed services valued in excess of \$50,000 in states other than the State of Illinois. We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act, and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

## II. ALLEGED UNFAIR LABOR PRACTICES

At all material times, the following individuals held the positions with the Respondent set forth opposite their respective names, and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

John Jordan, Jr.	—	President
John Jordan III	—	Project Coordinator
Jim Young	—	Supervisor

On a certain but unknown date in October 2004, the Respondent, by Jim Young, threatened employees at the Tampa International Airport jobsite that they would be discharged if they engaged in activities on behalf of the Union.

On or about October 12, 2004, the Respondent suspended employee Douglas Miller and approximately 2 weeks later, on or about October 25, it discharged Miller.

The Respondent suspended and discharged Miller because he joined, supported, and assisted the Union, and engaged in concerted activities, and to discourage employees from engaging in these activities.

## CONCLUSIONS OF LAW

1. By threatening to discharge employees if they engaged in activities on behalf of the Union, the Respondent has interfered with, restrained, and coerced employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(a)(1) of the Act.

2. By suspending and discharging Douglas Miller, the Respondent has discriminated in regard to the hire and

tenure or terms and conditions of employment of its employees, thereby discouraging membership in a labor organization, in violation of Section 8(a)(3) and (1) of the Act.

3. The Respondent's unfair labor practices affect commerce within the meaning of Section 2(6) and (7) of the Act.

## REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, we shall order it to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, having found that the Respondent violated Section 8(a)(3) and (1) of the Act by suspending and discharging Douglas Miller, we shall order the Respondent—to the extent it has not already done so<sup>1</sup>—to offer him full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed, and to make him whole for any loss of earnings and other benefits suffered as a result of the discrimination against him. Backpay shall be computed in accordance with *F. W. Woolworth Co.*, 90 NLRB 289 (1950), with interest as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987).<sup>2</sup>

The Respondent shall also be required to remove from its files all references to the unlawful suspension and discharge of Douglas Miller and to notify him in writing that this has been done and that the suspension and discharge will not be used against him in any way.

## ORDER

The National Labor Relations Board orders that the Respondent, Diamond Detective Agency, Inc., Chicago, Illinois, with a jobsite in Tampa, Florida, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Threatening employees with discharge for engaging in activities on behalf of the United Government Security Officers of America, Local #200, or any other union.

(b) Suspending and discharging employees because they support a union.

(c) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

<sup>1</sup> As previously stated, the Respondent asserts that it has already reinstated Miller to his former position.

<sup>2</sup> If the Respondent disputes the backpay amount to be calculated by the General Counsel, it may challenge the amount in a subsequent compliance proceeding.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Douglas Miller—to the extent it has not already done so—full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights and privileges previously enjoyed.

(b) Make whole Douglas Miller for any loss of earnings and other benefits resulting from his unlawful suspension and discharge, with interest, in the manner set forth in the remedy section of this decision.

(c) Within 14 days from the date of this Order, remove from its files all references to the unlawful suspension and discharge of Douglas Miller, and within 3 days thereafter, notify him in writing that this has been done and that the unlawful suspension and discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board agent or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its jobsite in Tampa, Florida, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 12, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since October 1, 2004.

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region at-

testing to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. August 25, 2005

Robert J. Battista, Chairman

Wilma B. Liebman, Member

Peter C. Schaumber, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

#### APPENDIX

##### NOTICE TO EMPLOYEES

##### POSTED BY ORDER OF THE

##### NATIONAL LABOR RELATIONS BOARD

##### An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

#### FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT threaten to discharge employees because they engage in activities on behalf of the United Government Security Officers of America, Local #200, or any other union.

WE WILL NOT suspend or discharge employees because they support a union.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, within 14 days from the date of the Board's Order, offer Douglas Miller—to the extent we have not already done so—full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights and privileges previously enjoyed.

WE WILL make whole Douglas Miller for any loss of earnings and other benefits resulting from his unlawful suspension and discharge, with interest.

<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

## DECISIONS OF THE NATIONAL LABOR RELATIONS BOARD

WE WILL, within 14 days from the date of the Board's Order, remove from our files all references to the unlawful suspension and discharge of Douglas Miller, and within 3 days thereafter, notify him in writing that this

has been done and that the unlawful suspension and discharge will not be used against him in any way.

DIAMOND DETECTIVE AGENCY, INC.